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**SUPREME COURT OF THE UNITED STATES**

October Term, 1939

**No. 11**

**CLARA SCHNEIDER, Petitioner,**

**v.**

**THE STATE (Town of Irvington), Respondent.**

**CERTIORARI FROM  
NEW JERSEY COURT OF ERRORS AND APPEALS**

**PETITIONER'S REPLY BRIEF**

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of Counsel

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**POINT ONE**

The Petitioner is not "one who is within the terms of the Ordinance" of the Town of Irvington and therefore could not be required to make application for permit as a condition precedent to raising the question as to the validity of the ordinance.

**ARGUMENT**

**A**

The undisputed evidence that appears in the record is that the Petitioner was at the time she was arrested "an ordained minister of Jehovah God to preach the gospel of God's kingdom under Christ Jesus" and that she was engaged in this work for that sole purpose. It would be wholly inconsistent to require a minister of the gospel to apply to a human official for a permit to do that which the Almighty commands must be done.

The Irvington Ordinance is subject to the same vice as the Ordinance of the town of Griffin, Ga., considered in the Case of *Lovell v. Griffin*, for the reason that it attempts to license the press and activities of the press and to license one's activities in performing the duties which Almighty God commands His servants to perform, and for that reason alone is void on its face, without regard to its application. The Ordinance here in question says: "No person shall distribute circulars or other matter or CALL FROM HOUSE TO HOUSE IN THE Town of Irvington without first having reported to and received a written permit from the Chief of Police."

To illustrate the point: If the contention of the Respondent here is to be upheld, then it would mean that a preacher of any church denomination calling upon his parishioners by going from house to house with the Bible in hand to instruct them could not do so without the Chief of Police first issuing to him a permit. According to this Ordinance such a preacher not only must apply for a permit but must be fingerprinted and submit testimony as to his good moral character and then leave it to a policeman to determine whether or not he met the requirements of the Ordinance. Such rule has never obtained in any country except that of the totalitarian state, and certainly could have no application in the United States of America.

It is customary for the nuns of the Catholic Church organization in the performance of their appointed duty to regularly call from house to house, and solicit and receive from persons money and other contributions. Under the Irvington Ordinance as applied they must first obtain a permit to so call from house to house. Otherwise, they would be guilty of a misdemeanor.

The religious organization known as the Salvation Army sends its representatives amongst the people and they call upon them from house to house soliciting contributions and selling their literature. Under the construction placed upon

the Irvington Ordinance by the Respondent their acts in so doing are in violation of the law.

A motorist might be driving through the Town of Irvington and stop to call on several of his former friends residing in different houses in that town, and in doing so "call from house to house". To do so without first obtaining a permit from the Police would be a violation of the Irvington Ordinance according to the construction the Courts below put upon it.

Let us assume that the Nazis, Fascists, and Soviets were moving in secret to invade the American shores and some good citizen learning this fact went from house to house to notify the people of the impending danger and in doing so he printed folders containing such warning which he distributed from house to house without first obtaining a permit from the Police. According to the New Jersey Courts he is guilty of a misdemeanor.

Should the ride of Paul Revere be repeated in the Town of Irvington, New Jersey, without first applying to the Police for a permit, the informer would be subject to spend a term in jail, according to the construction placed upon its ordinance by the Courts below.

If the Lord Jesus Christ, acting exactly as He did when He was on earth in the flesh, were here again and went from house to house in the Town of Irvington doing good and preaching the gospel (Luke 13: 22), He would be liable to be incarcerated in the town calaboose for not having first applied to the police to grant Him permission to do what His heavenly Father commanded Him to do.

The Petitioner in this case is a follower of the Lord Jesus Christ, doing exactly what Jesus and His apostles did; and, since she was so doing in obedience to the commandment of Almighty God, it is not within the power of the State or any municipality to regulate or attempt to regulate the manner in which she shall preach the gospel. To apply an ordinance to any of the persons named herein as it has been applied to the Petitioner would certainly



disclose that the ordinance is void on its face, for the reason that the persons against whom the application is made "do not come within the terms of the Ordinance".

Certainly this honorable Court would not hold that a person is required to first violate the law of Almighty God and his own conscience by applying for a permit to do what Almighty God commands him to do and this he must do before he could question the validity of the ordinance under which he is arrested.

Only the corporate or totalitarian states attempt to regulate the conscience of men or attempt to compel them to obey man's law which is in derogation of the law of Almighty God.

The very act of applying for a permit to engage in the service or worship of the Lord God, as the Petitioner was doing in this case, would cause her to violate her conscience and to violate the specific command of the Lord to "preach this gospel of the kingdom" and to go from house to house to do so; and certainly it is not within the power of the state or courts to compel a person to violate his conscience or violate the supreme law as a condition precedent to raising the question of the validity of an ordinance.

## B

The laws of the State enacted by imperfect men should never be suffered to contradict the laws of Almighty God, which are supreme. Recognizing this rule the Constitution of the State of New Jersey provides: "No person shall be deprived of the inestimable privilege of worshipping Almighty God in a manner agreeable to the dictates of his own conscience." This same freedom of worship is guaranteed to the citizens by the terms of the "due process" clause of the Fourteenth Amendment of the Constitution of the United States. It is not within the power of any municipality to interfere with the privilege of a citizen's

worshipping Almighty God in a manner agreeable to the dictates of the conscience of the citizen. The Irvington Ordinance as construed and applied to your petitioner requiring her to obtain a permit from a police officer before engaging in the worship of Almighty God is clearly void on its face.

As it appears from the Brief, Respondent's Counsel have a very limited and indefinite idea of what constitutes worship. The best definition to the word "worship" is that given by the Lord himself, and which is: "God is a spirit, and they that worship him must worship him in spirit and in truth." (John 4:24) To worship Him in spirit and in truth means to obey His commandments and serve Him. (Matthew 4:10) The definition of worship is amplified by the acts of the Lord Jesus Christ and those of His faithful apostles. Christ Jesus went about amongst the people from house to house preaching the gospel of the Kingdom. The apostles themselves did the same thing. (Acts 20:20) The specific commandment of the Lord to His followers is: "This gospel of the kingdom shall be preached in all the world for a witness unto all nations." (Matthew 24:14) "Go ye into all the world, and preach the gospel to every creature." (Mark 16:15) To preach does not mean to harangue the people, but to give to the people an opportunity to gain the information they so much need and which is contained in the Bible. That is exactly what your petitioner here was doing. She was going from house to house carrying with her the gospel of the Kingdom in printed form, exhibiting the same to the people and giving them an opportunity to learn God's purpose toward mankind. Certainly there could be nothing more commendable than what she was doing, and certainly such act of hers constitutes the worship of Almighty God in a manner agreeable to her conscience, and which worship cannot be interrupted or interfered with by a municipality or the state. It's hardly necessary here to say that any act on the part

of the Petitioner was in any manner whatsoever a violation of the "laws of morality and property" or that the same "infringed upon the personal rights of the people".

Respondent's Counsel may have in mind that the only means of worshiping Almighty God is to go into some building and engage in singing songs or listening to someone harangue the people. Such act is often an act of drawing near unto the Lord merely with one's mouth; and in this connection it is appropriate to cite the words of the Lord Jesus concerning those who thus attempt to worship God, to wit: "This people draweth nigh unto me with their mouth, and honoureth me with their lips, but their heart is far from me. But in vain they do worship me, [because they are] teaching for doctrines the commandments of men." "Thus have ye made the commandment of God of none effect by your tradition." (Matthew 15:6, 8, 9) Concerning those who resort to such formalism and call it worship it is written in the Scriptures: "Having a form of godliness, but denying the power thereof." (2 Timothy 3:5) Your Petitioner in this Case was not haranguing the people, and not disturbing them. She was calling at their homes at a reasonable hour, respectfully calling attention to God's Word, exhibiting to them Bible truths in printed form that they might be aided and comforted in this time of distress. No one who really believes in righteousness and hates iniquity should want to interfere with such a high, laudable and charitable work.

The Ordinance of the Town of Irvington, as that ordinance is construed and applied by the courts below, is invalid on its face, when viewed in the light of the Constitution of the State of New Jersey, and of the Fourteenth Amendment of the Constitution of the United States. Since the petitioner does not come within the terms of the ordinance, for these reasons she would not be required to make application for a permit, before she could raise the



question of the validity of said ordinance, as construed and applied. For the reasons assigned the judgment of the lower court should be reversed and the defendant discharged.

Respectfully submitted,

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